

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

WINE & CANVAS DEVELOPMENT LLC,)
)
)
 Plaintiff,)
)
)
 v.) Case No. 1:11-cv-01598-TWP-DKL
)
)
CHRISTOPHER MUYLLE,)
)
)
 Defendant.)

CHRISTOPHER MUYLLE,)
)
)
 Counter Claimant,)
)
)
 v.)
)
WINE & CANVAS DEVELOPMENT LLC,)
)
)
 Counter Defendant.)

CHRISTOPHER MUYLLE,)
)
)
 Third Party Plaintiff,)
)
)
 v.)
)
TAMARA SCOTT, DONALD McCracken,)
and ANTHONY SCOTT,)
)
)
 Third Party Defendants.)
)

ORDER ON WNC PARTIES' REQUEST FOR JUDICIAL NOTICE

This matter is before the Court on Plaintiff Wine & Canvas Development LLC and Third Party Defendants Tamara Scott, Donald McCracken, and Anthony Scott's (collectively "WNC Parties") Request for Judicial Notice of Adjudicative Facts ([Filing No. 417](#)). WNC Parties request

that the Court take judicial notice of five “adjudicative facts.” Defendant Christopher Muylle (“Mr. Muylle”) filed a response to WNC Parties’ request for judicial notice ([Filing No. 419](#)). For the following reasons, WNC Parties’ request is **GRANTED** in part and **DENIED** in part.

1. WNC Parties request that the Court take judicial notice of the parties to this case, but they include the defaulted defendants in the instruction on judicial notice. The jury trial is between only Mr. Muylle and WNC Parties. Judicial notice on the defaulted defendants does not appear to be relevant to the issues to be tried and may lead to confusion. WNC Parties’ request is **DENIED**.

2. WNC Parties next request that the Court take judicial notice of the parties to this case, including the defaulted defendants, and the claims asserted against those defendants. This request presents the claims in a misleading manner. Additionally, the jury trial is between only Mr. Muylle and WNC Parties. Again, judicial notice on the defaulted defendants does not appear to be relevant to the issues to be tried and may lead to confusion. WNC Parties’ request is **DENIED**.

3. WNC Parties next request that the Court take judicial notice that the Court has conclusively found the defaulted defendants jointly and severally liable for each of the claims asserted by Wine & Canvas. This is not factually accurate. WNC Parties’ request is **DENIED**.

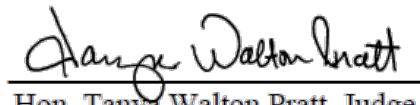
4. WNC Parties request that the Court take judicial notice that Theodore Weisser and Mr. Muylle asserted counterclaims against Wine & Canvas. Defendant Theodore Weisser is in default, and claims or counterclaims regarding Mr. Weisser will not be presented to the jury. Judicial notice on the Mr. Weisser’s claims does not appear to be relevant to the issues to be tried and may lead to confusion. WNC Parties’ request is **DENIED** as to Mr. Weisser. The Court **GRANTS** the request as to Mr. Muylle and will take judicial notice that Mr. Muylle asserted a counterclaim against Wine & Canvas for cancellation of Wine & Canvas’ trademark and for violations of California’s franchising laws.

5. WNC Parties request that the Court take judicial notice that the Court ruled against Theodore Weisser and Mr. Muylle and in favor of Wine & Canvas on the asserted counterclaims against Wine & Canvas. Claims or counterclaims regarding Mr. Weisser will not be presented to the jury and judicial notice as requested does not appear to be relevant to the issues of trial. Instructing the jury on Mr. Weisser may lead to confusion. WNC Parties' request is **DENIED** as to Mr. Weisser. The Court **GRANTS** the request as to Mr. Muylle and will take judicial notice that the Court ruled against Mr. Muylle and in favor of Wine & Canvas on Mr. Muylle's counterclaims against Wine & Canvas for cancellation of Wine & Canvas' trademark and for violations of California's franchising laws.

During trial, counsel for WNC Parties may renew his request for judicial notice of certain facts if they are accurate and relevant to matters before the jury.

SO ORDERED.

Date: 11/14/2014



Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

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